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Federal Communications Commission

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FCC-MAILROOM

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Sparta and Morrison, Tennessee)

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MB Docket No. 04-316
RM-11047

REPORT AND ORDER
(Proceeding Terminated)

Adopted: April 6, 2005

Released: April 8, 2005

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*¹ proposing changes in the FM Table of Allotments, 47 C.F.R. § 73.202(b). In response to a petition filed by Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station WRKK-FM, Channel 288A, Sparta, Tennessee, the *Notice* proposes to change the community of license for Station WRKK-FM from Sparta to Morrison, Tennessee, and to change the corresponding channel allotment from Channel 288A to Channel 287A. Clear Channel's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment. Clear Channel represents that if its request is granted, it will file an application to modify the facilities of Station WRKK-FM to specify operation on Channel 287A and to change its community of license to Morrison, Tennessee. Clear Channel filed comments supporting the changes proposed in the *Notice*.

2. In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.² Retention of Channel 288A at Sparta would satisfy only the fourth allotment priority, "other public interest matters," whereas the proposed change of community proposal to Morrison would satisfy the third allotment priority, "first local service."³

3. Morrison, an incorporated town with a population of 684 persons, is a community for allotment purposes and is deserving of its own local service. The change of community will result in a first local service for Morrison as well as a net gain of 34,028 persons served by Station WRKK-FM. The change of community would not cause Station WRKK-FM to place a 70 dBu signal over any portion

¹ *Sparta and Morrison, Tennessee*, 19 FCC Rcd 15,378 (MB 2004) ("Notice").

² 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

³ Sparta will continue to be served by two local stations, WSMT(AM) and WTZX(AM).

of any urbanized area, so no *Tuck* analysis is required.⁴

4. For all of the foregoing reasons, we conclude that the public interest would be served by substituting Channel 287A for Channel 288A at Sparta, Tennessee, and realloting Channel 287A at Morrison, Tennessee. Channel 287A can be allotted at Morrison in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 3.4 kilometers (2.1 miles) northeast of Morrison at reference coordinates of: 35-37-27 NL and 85-53-37 WL.

5. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. §801(a)(a)(A).

6. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b), 0.283, and 1.420(i), IT IS ORDERED, That effective May 23, 2005, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel Number</u>
Morrison, Tennessee	287A
Sparta, Tennessee	---

7. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Clear Channel Broadcasting Licenses, Inc., for Station WRKK-FM, Channel 288A, Sparta, Tennessee, IS MODIFIED to specify operation on Channel 287A at Morrison, Tennessee, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307, unless the proposed facilities are categorically excluded from environmental processing.

8. Pursuant to 47 C.F.R. Section 1.1104(1)(k) and (3)(l), any party seeking a change in community of license of a TV or FM allotment or an upgrade of an existing FM allotment, if the request is granted, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Clear Channel Broadcasting Licenses, Inc., licensee of Station WRKK-FM, is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

⁴ *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1988).

9. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Gregory L. Masters
Evan S. Henschel
Wiley Rein & Fielding LLP
1776 K Street, N.W.
Washington, D.C. 20006

10. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

11. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief
Audio Division
Media Bureau